

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DONNA ANDERSON,

Plaintiff-Appellant,

v

OAKLAND PSYCHOLOGICAL CLINIC, P.C.,  
and INSIGHT, INC.,

Defendants-Appellees.

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UNPUBLISHED

October 6, 2000

No. 214614

Genesee Circuit Court

LC No. 97-055266-NH

Before: McDonald, P.J., and Sawyer and White, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motions for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendants rendered psychological treatment to plaintiff to assist her in recovering memories of sexual abuse to which she believed she was subjected during childhood. Plaintiff eventually concluded that her memories were false, and that no abuse had occurred. The last act of treatment occurred in late 1994 or early 1995.

On September 17, 1996, plaintiff filed a pre-suit notice, as required by MCL 600.2912b; MSA 27A.2912(2), in which she alleged that she remained under the disability of insanity until March, 1996, because until that time she believed that the memories were true. On March 17, 1997, plaintiff filed a complaint for medical malpractice.

Defendants moved for summary disposition pursuant to MCR 2.116(C)(7) and (10), arguing that plaintiff's suit was barred because it was not filed either within two years of the act or omission that was the basis for the claim, or within six months after plaintiff discovered or should have discovered the claim. The trial court granted the motion, holding that plaintiff's claim did not survive the six-month discovery period for the reason that the evidence showed that as of March 7, 1996, at the latest, plaintiff knew or should have known of the existence of a possible claim. In granting the motion, the trial court also relied on *Lemmerman v Fealk*, 449 Mich 56; 534 NW2d 695 (1995), in which our

Supreme Court held that neither the discovery rule nor the statutory grace period applicable to persons disabled by insanity, MCL 600.5851(1); MSA 27A.5851(1), extended the limitations period for bringing a tort action based on childhood sexual abuse delayed due to repressed memory. The trial court reasoned that *Lemmerman, supra*, was applicable because a case involving false memories was virtually indistinguishable from a case involving repressed memories.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

The statute of limitations for an action charging medical malpractice is two years. MCL 600.5805(4); MSA 27A.5805(4). A medical malpractice claim accrues "at the time of the act or omission that is the basis for the claim . . . regardless of the time the plaintiff discovers or otherwise has knowledge of the claim." MCL 600.5838a(1); MSA 27A.5838(1)(1). The statute of limitations is subject to a six-month discovery exception, under which a claim may be commenced within the applicable limitations period, or within six months after the plaintiff discovers or should have discovered the claim, whichever is later. MCL 600.5838a(2); MSA 27A.5838(1)(2).

Plaintiff's own testimony established that by March 7, 1996, at the latest, she strongly suspected that the memories of abuse she had supposedly recovered via therapy rendered by defendants were false. Plaintiff was aware that she had been injured, and was aware of the possible cause of the injury. For purposes of the discovery rule, plaintiff discovered her claim no later than March 7, 1996. *Solowy v Oakwood Hosp Corp*, 454 Mich 214, 222; 561 NW2d 843 (1997). Because plaintiff did not file a notice of intent to sue within six months after discovering her claim, the statute of limitations was not tolled. *Morrison v Dickinson*, 217 Mich App 308, 317-318; 551 NW2d 449 (1996). The trial court properly decided this issue as one of law. *Solowy, supra*, 230. Further, plaintiff was under no recognizable disability to excuse her failing to act within six months of March 7. *Lemmerman, supra*.<sup>1</sup>

Affirmed.

/s/ Gary R. McDonald  
/s/ David H. Sawyer  
/s/ Helene N. White

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<sup>1</sup> Because we conclude the trial court properly determined that the six-month discovery period expired before plaintiff filed or gave notice of the action, we need not address the court's application of *Lemmerman*, except to observe that plaintiff could not claim that the six-month period was itself extended due to her mental state.